

**PUBLIC NOTICE**

**# M2003-08**



**TN DEPT. OF ENVIRONMENT & CONSERVATION  
DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION  
2700 MIDDLEBROOK PIKE SUITE 220  
KNOXVILLE TN 37921**

**ISSUE DATE 12/16/2003**

**EXPIRATION DATE 01/16/2004**

**TO WHOM IT MAY CONCERN:** The applications described herein have been submitted for Aquatic Resource Alteration Permits pursuant to *The Tennessee Water Quality Control Act of 1977*, T.C.A. §69-3-108.

The purpose of this notice is to advise all concerned of the proposals for which permits are sought and to solicit comments and information necessary to evaluate the probable impact of the activities upon the respective water resources. The decision whether to issue or deny will in part be based upon that evaluation. All factors that may be relevant to the proposals will be considered.

Persons wishing to comment on or object to the issuance of a proposed permit are invited to submit comments in writing to the address listed above. Written statements received in this office on or before the date of expiration of the comment period, **January 17, 2004**, will become part of the record and will be considered in the determination. The public notice number, applicant's name, permit number and coordinator should be referenced.

Interested persons may also request in writing that the director of the Division hold a public hearing on any application. The request must be filed within the comment period and must indicate the interest of the person requesting it, and the reasons that the hearing is warranted. When there is sufficient public interest, the director shall hold a hearing in accordance with Rule 1200-4-1-.05(3)(G).

After consideration of comments submitted during the public comment period, the hearing record if any, and the requirements of federal and state law, the director of the Division will make determinations regarding the final action on each permit. Permit applications, supporting documentation and related comments are available for review and/or copying.

The public notice includes tentative determinations regarding the issuance, modification, denial or termination of permits for the activities proposed herein.

**DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION**

**WATER QUALITY PERMIT  
AQUATIC RESOURCE ALTERATION**

**PERMIT NUMBER #M2003-08**

**Permit Application Number:** ARAP-#M2003-08

**Applicant:** Mr. Gary Asher, President  
Appolo Fuels, Inc.  
P. O. Box 1727  
Middlesboro, KY 40965

**Location:** Unnamed tributaries to Straight Creek, Spruce Lick and Valley Creek in Claiborne County near Clairfield, Tennessee at 36°32'19" latitude and 83°50'49" longitude on the Eagan and Fork Ridge, Tennessee USGS Quadrangles. The effected reaches are associated with Appolo Fuels Inc., Horseshoe Mountain – Buckeye Springs Mine, OSM Permit # 3129.

**Background Information:** Appolo Fuels Inc., is proposing to develop the Horseshoe Mountain – Buckeye Springs Mine, OSM Permit # 3129 in the Clear Fork watershed. Elimination of existing highwall and restoration of degraded stream reaches are to result from remining the Buckeye Springs coal seam. The mining related activities proposed in the Appolo Fuels Inc. permit application are to result in the alteration of four intermittent stream reaches in the Clear Fork watershed.

A review of State of Tennessee databases indicate that the Blackside Dace a species federally listed as threatened is recorded to occur in Straight Creek and Tackett Creek. The Division's review of the permit application determined that the scope of the project is such that the proposed activities are not covered under a general permit.

During a May 27, 2002, pre-mine investigation Mining Section personnel identified ephemeral/ intermittent stream reaches. The coverage of an Aquatic Resource Alteration Permit is required for the proposed alterations to these stream reaches. The ephemeral/intermittent stream reaches have been encroached on and altered by activities associated with coal mining prior to the implementation of the *Surface Mining and Reclamation Control Act of 1977*. Bank instability and erosion in these stream reaches contribute significantly to sediment loads in Straight Creek, Spruce Lick and Valley Creek during precipitation events.

**Project Description ARAP-#M2003-08:** Appolo Fuels Inc., has applied for an Individual Aquatic Resource Alteration permit for the alteration and restoration of approximately 1601 feet of intermittent stream.

- The permit application indicates approximately 1257 linear feet of intermittent stream are to be altered by degradation II activities related to the Jellico Strip Mine. These stream reaches are impacted by mining related activities prior to the implementation of the *Surface Mining and Reclamation Control Act of 1977*. Streams are intercepted by abandoned mine benches and alter the drainage continuity. The existing watershed drainage conditions continue to degrade potentially increasing sediment loading in Straight Creek, Spruce Lick and Valley Creek.
- The proposed activity would include the restoration and enhancement of approximately 2714 linear feet of intermittent stream channel post-mining. The stream reaches will be reconstructed on the reclaimed contours to emulate the drainage patterns prior to coal mining in the watershed based on the USGS quadrangle. Reconstruction and enhancements to stream reaches will follow a generalized template. Variations from the generalized template may occur due to specific site conditions and material availability. The reconstructed stream channels are designed to have the following characteristics:
  - a. A baseflow channel is to be nested within a designed channel that will act as a flood prone area during significant precipitation events.
  - b. Bankfull depth and width of the baseflow channel will be determined by pre-mining stream conditions upstream and downstream of the disturbance.
  - c. The channels will have a high gradient slope  $\geq$  ten percent.
  - d. Structures such as but not limited to log dams, K-dams, wedge dams, substrate additions will utilized for energy dissipation, to vary flow depth regimes, and provide aquatic habitat.
  - e. Energy dissipation structures will be placed at changes of grade at intervals not to exceed 150' in reaches with velocities less than 5 feet per second and at intervals not to exceed 100' in reaches with velocities greater than 5 feet per second recreating step/pool characteristics.
  - f. Areas where significant erosion is possible will be protected with structures such as cover logs, bank cribs, and boulder placement.

Approximately 2089 feet of stream will be restored, credited at 1.5:1 and 625 feet of ephemeral/intermittent stream will be enhanced, credited at 3:1.

- On completion of channel construction and achievement of final grade the area will be revegetated with an appropriate seed mix. The area will also be planted with endemic tree and shrub species at a rate of 400 stems per acre to develop a riparian canopy extending for a minimum of 16 meters on either side of the reconstructed stream channel. In addition black willow, sycamore, and other suitable species may be sprigged on 3' centers on the channel side slopes.

- Reconstructed stream channels will flow through basins/ponds converted post-mining to aquatic and riparian wetland habitat. The aquatic habitat structures are enhancements to the watershed that will provide habitat for amphibians and other aquatic life, act as catchments reducing sediment loading, and provide hydraulic recharge to intermittent drainages below the mine area.

**Tentative Determination:** The Division proposes to issue a conditional permit.

**Permit Coordinator:** Dave Turner  
Mining Section  
Division of Water Pollution Control  
2700 Middlebrook Pike  
Suite 220  
Knoxville, TN 37921

#### Aquatic Resource Alteration Permit Conditions

1. The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
3. A copy of the permit and approved plans must be kept on site during all construction phases of the covered activities.
4. Drainage and erosion controls must be in place prior to commencing construction activities.
5. Reconstructed stream reaches and discharge channels to the ARAP areas must be lined with appropriate erosion control matting.
6. Appollo Fuels Inc., must notify the Division in writing prior to beginning the cut sequence through a stream reach designated as part of the aquatic resource alteration permit and on completion of the cut sequence.

7. To the extent practicable enhancements must be in place prior to the start of each cut sequence. Specifically outslopes must be stabilized so that the stream channels are not further eroded. Reconstruction of the stream channel is to commence on the completion of each cut sequence.
8. Appolo Fuels Inc., must provide an as-built plan of each reconstructed and enhanced stream reach to the Division on completion of construction activities.
9. Fifty-foot riparian buffers on either side of the stream channel must be established. Buffer areas without established vegetation must be planted with endemic shrub and tree species at the rate of four hundred stems per acre. No species should compromise more than one-third of the total planted trees in the riparian buffer zones. Seventy-five percent survivorship must be attained during the five-year monitoring period.
10. Riparian wetlands may have open water areas to encourage the growth of successional wetland species and provide habitat for aquatic life. Adjacent areas within the riparian zones must be planted or sprigged. The development of the wetlands and aquatic habitat areas should be included in the annual monitoring reports.
11. Riparian wetlands must have developed outlets and be hydraulically connected to the drainages within the watershed. Some areas may be developed specifically as isolated depressional wetlands and not associated with a specific drainage.
12. Undisturbed areas within the riparian buffer zones may not require additional planting. This is subject to Division approval and Appolo Fuels Inc. must demonstrate that tree and shrub species are established in these zones and that they have not been disturbed by activities related to the Horseshoe Mountain-Buckeye Springs Mine.
13. A written agreement must be obtained from the landowner that precludes surface disturbance such as harvesting of timber in the fifty-foot buffer zones for a minimum of twenty-five years with selective harvesting only in these zones thereafter. This will assist in assuring the long-term stability of the reconstructed stream reaches.
14. Level III monitoring requirements must be implemented for ARAP-#M2003-08. The first two of the following items have been completed and submitted to the Division in this application:
  - Narrative description and photos of pre-project conditions
  - Pre-project habitat assessment
  - Annual narrative description and photos
  - Annual riparian vegetation survey
  - Annual channel morphology survey

- Post-project habitat assessment at the end of the required monitoring period
15. Reaches that develop significant erosion or bank instability should be identified during the annual monitoring and remedial stabilization measures taken such as, but not limited to, boulder/rock deflectors, log revetments, bank cribs, etc. Location and type of remedial measures taken should be indicated in the narrative description and photos submitted annually to the Division.
  16. A comprehensive post-project report must be submitted to the Division at the conclusion of the five-year monitoring period. This report must demonstrate that the ARAP channel, aquatic habitat areas, and riparian buffer zones have met permit conditions.
  17. The Division will issue a letter of finding indicating that remedial action and additional monitoring is required or that no additional action is required.

This does not obviate requirements of other federal, state or local laws.

The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et. seq. Questions concerning this certification should be addressed to Dave Turner at 865-594-5541 or Dan Murray at 865-594-5549.

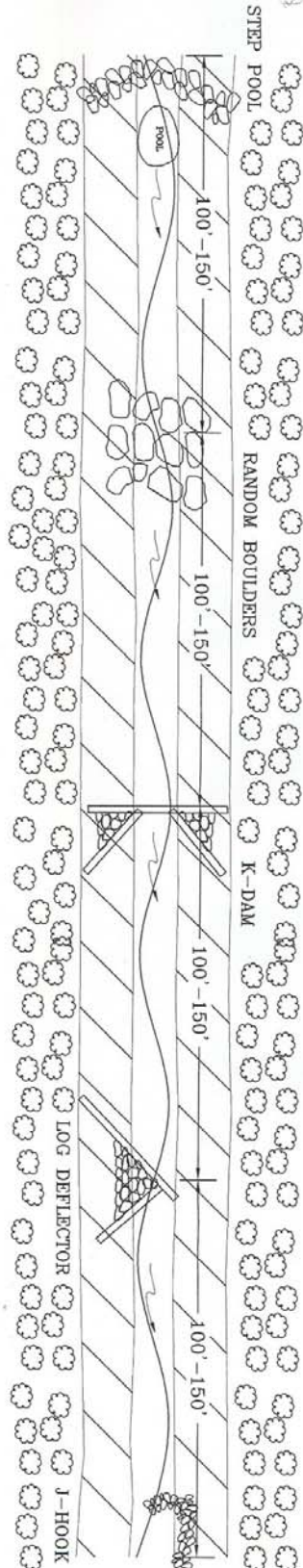




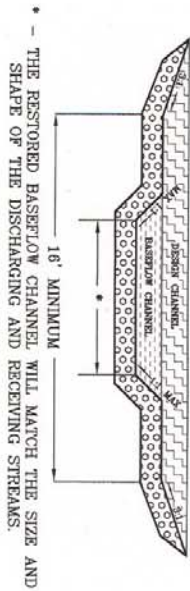


**Permit Application M2003-08**  
 Generalized Reconstructed  
 Stream Reach

**TYPICAL STREAM RESTORATION SEGMENT**



**MINIMUM STREAM CROSS SECTION**



REFERENCE SECTIONS IV, V, AND VI OF THE RIPARIAN RESTORATION AND STREAMSIDE EROSION CONTROL HANDBOOK FOR DETAILS OF ENHANCEMENT MEASURES. THE ACTUAL ENHANCEMENT MEASURES USED WILL BE DETERMINED BY SITE CONDITIONS AND MATERIAL AVAILABILITY. THE COMBINATION OF ENHANCEMENT MEASURES USED IS AT THE DISCRETION OF MINE MANAGEMENT AND ALL OF THE MEASURES DESCRIBED IN THE HANDBOOK MAY NOT BE SUITABLE FOR USE ON SITE.

I hereby certify, from the best of my knowledge and belief, that the above information is true and correct to the best of my knowledge and belief.  
 7/7/03  
 DATE  
 SIGNATURE

RLB Engineering, PSC. 401 South Dixie St., Suite "A", London, KY 40741 (606) 878-1381	
<b>Apollo Fuels, Inc.</b> Application 3129 - ARAP 1	
<b>STREAM RESTORATION TEMPLATE</b>	
DATE: 7/7/03	FILENAME: STREAM-REST-TEMP
SCALE: NTS	DRAWN BY: RLB



**DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION**

**WATER QUALITY PERMIT  
AQUATIC RESOURCE ALTERATION**

**PERMIT NUMBER #M2003-09**

**Permit Application Number:** ARAP-#M2003-09

**Applicant:** Mr. Gary Asher, President  
Appolo Fuels, Inc.  
P. O. Box 1727  
Middleboro, KY 40965

**Location:** Unnamed tributary to Watson in Claiborne County near Motch, Tennessee at 36°34'40" latitude and 83°46'40" longitude on the Fork Ridge, Tennessee USGS Quadrangle. The effected reaches are associated with Appolo Fuels Inc., Mingo Mine, OSM Permit # 3128.

**Background Information:** Appolo Fuels Inc., is proposing to develop the Mingo Mine, OSM Permit # 3128 in the Bennett's Fork watershed. This is proposed as an underground coalmine on an existing strip bench. The mining related activities proposed in the Appolo Fuels Inc. permit application would result in the alteration of an intermittent tributary to Watson Branch.

A review of State of Tennessee databases indicated that the Blackside Dace a species federally listed as threatened is recorded to occur in Bennett's Fork. The Division's review of the permit application determined that the scope of the project is such that the proposed activities are not covered under a general permit.

During a March 25, 2002, pre-mine investigation Mining Section personnel identified an intermittent stream reach and associated wetlands at the proposed mine site. The coverage of an Aquatic Resource Alteration Permit is required for the proposed alterations to these stream reaches and wetlands. The intermittent stream reach has been encroached on and altered by activities associated with coal mining prior to the implementation of the *Surface Mining and Reclamation Control Act of 1977*. The stream is degraded, braiding across the abandoned mine bench and infiltrating through an old pond embankment. Minimal habitat is available for epifaunal colonization due to sedimentation. The existing watershed conditions continue to degrade potentially increasing sediment loading in Watson Branch during precipitation events.

**Project Description ARAP-#M2003-09:** Appollo Fuels Inc., has applied for an Individual Aquatic Resource Alteration permit for the alteration and restoration of approximately 300 feet of intermittent stream and approximately 0.25 acres of wetlands.

- The permit application indicates approximately 300 linear feet of intermittent stream will be segregated from mining related activities associated with the Mingo Mine. This stream reach has been impacted by mining related activities prior to the implementation of the *Surface Mining and Reclamation Control Act of 1977*. The existing watershed conditions are likely to degrade increasing the sediment loads in Watson Branch unless the stream channel stabilized.
- The proposed activity would include the enhancement of approximately 300 linear feet of intermittent stream channel prior to mining. The stream reaches will be reconstructed on the reclaimed contours to emulate the drainage patterns prior to coal mining in the watershed based on the USGS quadrangle. The reconstructed stream channel is designed to have the following characteristics:
  - a. A meandering 12-foot wide channel with a maximum depth of 3 feet. Approximately 10 feet of the reconstructed channel will function as flood-prone area with the banks sloped at an approximate 2:1 ratio.
  - b. Bankfull depth and width of the baseflow channel will be determined by pre-mining stream conditions upstream and downstream of the disturbance.
  - c. The reconstructed channel is to be lined with 6 to 12 inch rock in low energy areas and 18 to 30 inch rock in meanders and areas of significant grade change to provide energy dissipation, vary the flow depth regimes, and provide aquatic habitat emulating step/pool characteristics.
  - d. An existing pond embankment that partially encapsulates the stream will be partially removed restoring drainage continuity to Watson downstream of the mine bench.
  - e. On completion of channel construction and achievement of final grade the area will be revegetated with an appropriate seed mix within 30 days.
  - f. During mining a 25-foot buffer will be maintained on either side of the stream channel. The area will also be planted with endemic tree and shrub species at a rate of 400 stems per acre to develop a riparian canopy extending for a minimum of 16 meters on either side of the reconstructed stream channel. In addition black willow, sycamore, and other suitable species may be sprigged on 3' centers on the channel side slopes.
- Two sediment structures will be converted to aquatic habitat/wetland structures post-mining. These enhancements to the watershed will provide habitat for amphibians and other aquatic life, act as catchments reducing sediment loading, and provide hydraulic recharge to intermittent drainages below the mine area.

- Soils and existing vegetative cover will be removed from the 0.25 acres of disturbance and stored for use in the aquatic habitat/wetland structures.

Approximately 300 feet of intermittent stream will be enhanced, credited at 4:1 and approximately 2.3 acres of wetlands will be constructed, credited at 9:1.

**Tentative Determination:** The Division proposes to issue a conditional permit.

**Permit Coordinator:** Dave Turner  
Mining Section  
Division of Water Pollution Control  
2700 Middlebrook Pike  
Suite 220  
Knoxville, TN 37921

#### Aquatic Resource Alteration Permit Conditions

1. The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
3. A copy of the permit and approved plans must be kept on site during all construction phases of the activity covered.
4. Drainage and erosion controls must be in place prior to commencing construction activities.
5. Silt fence and straw bales are not to be utilized in concentrated flow paths. Rock check dams are acceptable in concentrated flow paths.
6. Reconstructed stream reaches and discharge channels to the ARAP areas must be lined with appropriate erosion control matting.

7. To the extent practicable enhancements must be in place prior to the start of mining. Revegetation of the stream channel is to commence on the completion of mining.
8. Appolo Fuels Inc., must provide an as-built plan of each enhanced stream reach to the Division on completion of construction activities.
9. Fifty-foot riparian buffers on either side of the stream channel must be established post-mining. Buffer areas without established vegetation must be planted with endemic shrub and tree species at the rate of four hundred stems per acre. No species should compromise more than one-third of the total planted trees in the riparian buffer zones. Seventy-five percent survivorship must be attained during the five-year monitoring period.
10. Constructed wetlands may have open water areas to encourage the growth of successional wetland species and provide habitat for aquatic life. Adjacent areas within the riparian zones must be planted or sprigged. The development of the wetlands and aquatic habitat areas should be included in the annual monitoring reports.
11. Constructed wetlands must have developed outlets and be hydraulically connected to the drainages within the watershed. Some areas may be developed specifically as isolated depressional wetlands and not associated with a specific drainage.
12. A written agreement must be obtained from the landowner that precludes surface disturbance such as harvesting of timber in the fifty-foot buffer zones for a minimum of twenty-five years with selective harvesting only in these zones thereafter. This will assist in assuring the long-term stability of the reconstructed stream reaches.
  - Narrative description and photos of pre-project conditions
  - Pre-project habitat assessment
  - Annual narrative description and photos
  - Annual riparian vegetation survey
  - Annual channel morphology survey
  - Post-project habitat assessment at the end of the required monitoring period
13. Reaches that develop significant erosion or bank instability should be identified during the annual monitoring and remedial stabilization measures taken such as, but not limited to, boulder/rock deflectors, log revetments, bank cribs, etc. Location and type of remedial measures taken should be indicated in the narrative description and photos submitted annually to the Division.

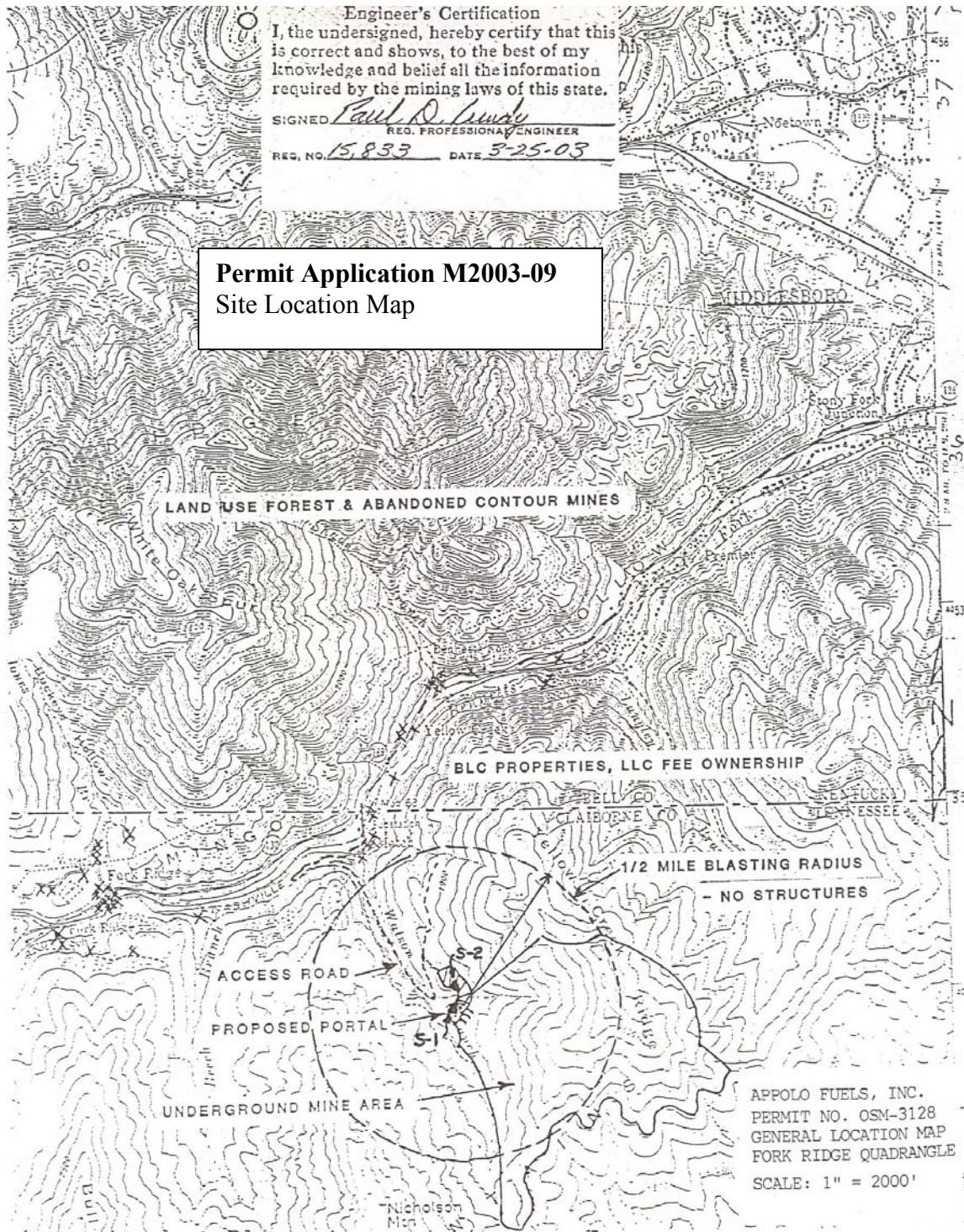
14. A comprehensive post-project report must be submitted to the Division at the conclusion of the five-year monitoring period. This report must demonstrate that the ARAP channel, aquatic habitat areas, and riparian buffer zones have met permit conditions.
15. The Division will issue a letter of finding indicating that remedial action and additional monitoring is required or that no additional action is required.

This does not obviate requirements of other federal, state or local laws.

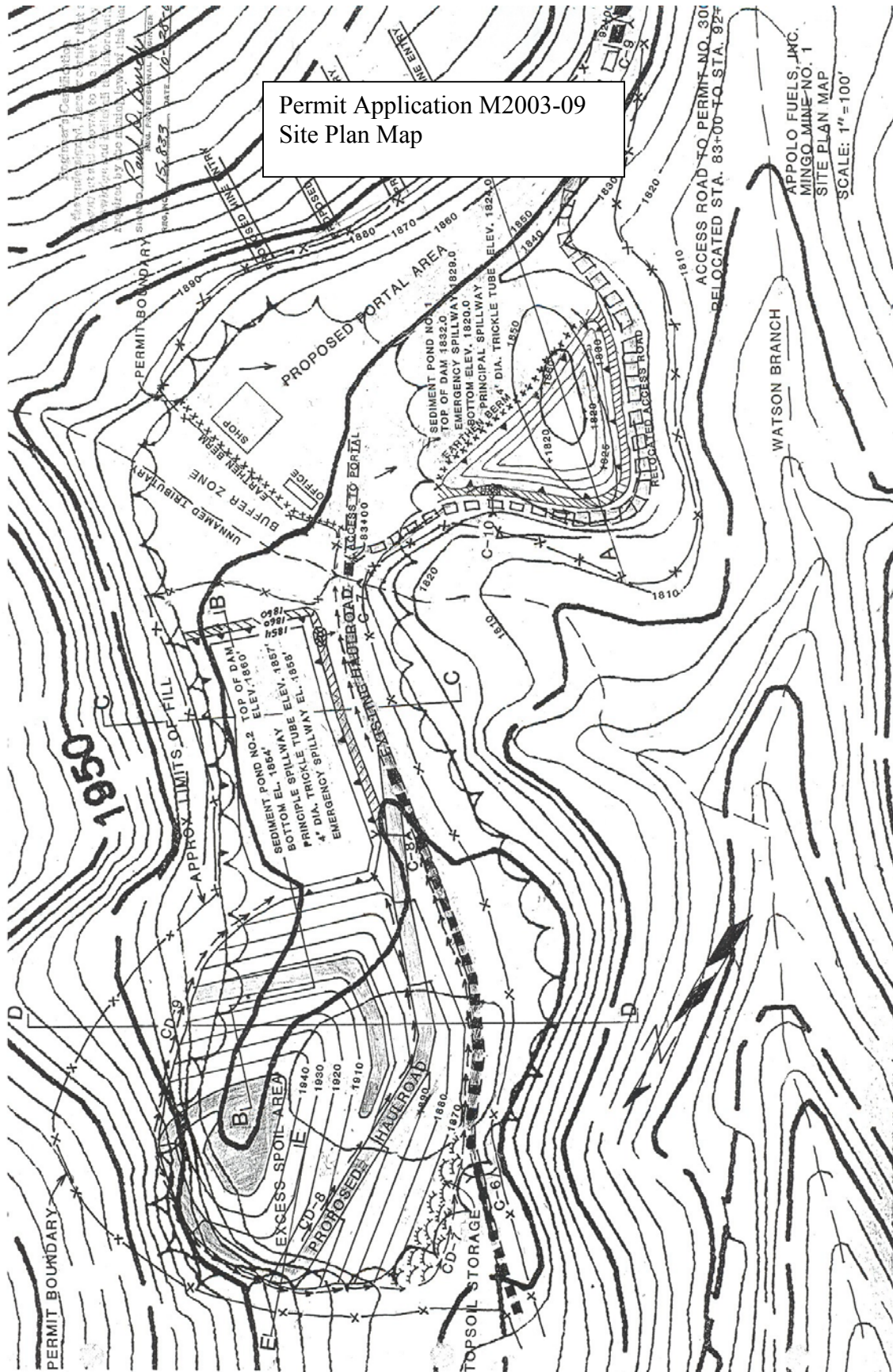
The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et. seq. Questions concerning this certification should be addressed to Dave Turner at 865-594-5541 or Dan Murray at 865-594-5549.









**DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION**

**WATER QUALITY PERMIT  
AQUATIC RESOURCE ALTERATION**

**PERMIT NUMBER #M2003-10**

**Permit Application Number:** ARAP-#M2003-10

**Applicant:** Mr. James Botbyl, Partner  
Silvara Stone Company, LLC  
309 County Seat Rd.  
Crossville, TN 38555

**Location:** Unnamed tributary to One-Mile Creek in Cumberland County near Crossville, Tennessee at 35°55'58" latitude and 85°00'39" longitude on the Crossville, Tennessee USGS Quadrangle. The effected stream reach is associated with the Silvara Stone Company, LLC, Preparation Plant.

**Background Information:** Silvara Stone Company, LLC, is proposing to construct a new entrance to its preparation plant off State Route 392 due to the closure of County Seat Road where its entrance is currently located. The preparation plant is in the Daddy's Creek watershed. In developing the new site entrance Silvara Stone Company is going to encapsulate 150 feet of stream classified as wet weather conveyance.

A review of State of Tennessee databases indicate that Daddy's Creek is listed by the US Fish and Wildlife Service as critical habitat for the Spotfin Chub *Cyprinella monacha*. This species is federally listed as threatened. A jurisdictional wetland occurs upstream of the proposed activity and is connected to One-Mile Creek by the wet weather conveyance. The Division's review of the permit applications determined that the scope of the project is such that the proposed activities in these waters of the state are not covered under a general permit.

**Project Description ARAP-#M2003-10:** Silvara Stone Company, LLC, has applied for an Individual Aquatic Resource Alteration permit for the encapsulation of approximately 150 linear feet of wet weather conveyance in a 48 inch diameter corrugated metal pipe.

**Tentative Determination:** The Division proposes to issue a conditional permit.

**Permit Coordinator:** Dave Turner  
Mining Section  
Division of Water Pollution Control  
2700 Middlebrook Pike  
Suite 220  
Knoxville, TN 37921

#### Aquatic Resource Alteration Permit Conditions

1. The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
3. A copy of the permit and approved plans must be kept on site during all construction phases of the covered activities.
4. Drainage and erosion controls must be in place prior to commencing construction activities.
5. On completion of construction and achievement of final grade the area will be revegetated with an appropriate seed mix within 30 days.
6. At a minimum twenty-five foot riparian buffers on either side of the stream channel must be established upstream of the crossing to the jurisdictional wetland area and downstream to the confluence of One-Mile Creek. Buffer areas without established vegetation must be planted with endemic shrub and tree species at the rate of 400 stems per acre. No species should compromise more than one-third of the total planted trees in the riparian buffer zones. Seventy-five percent survivorship must be attained during the five-year monitoring period.
7. Undisturbed areas within the riparian buffer zones may not require additional planting. This is subject to Division approval and Silvara Stone Company must demonstrate that tree and shrub species are established in these zones.

8. A written agreement must be obtained from the landowner that precludes surface disturbance such as harvesting of timber in the twenty-five foot buffer zones for the duration the stream reach is encapsulated.
9. The following monitoring requirements must be implemented for ARAP-#M2003-10. The first of the following items have been completed and submitted to the Division in this application:
  - Narrative description of pre-project conditions
  - Biennial narrative description and photos
  - Biennial riparian vegetation survey
10. A comprehensive post-project report must be submitted to the Division at the conclusion of the five-year monitoring period. This report must demonstrate that the riparian buffer zones have met permit conditions.
11. The Division will issue a letter of finding indicating if remedial action and additional monitoring is required.

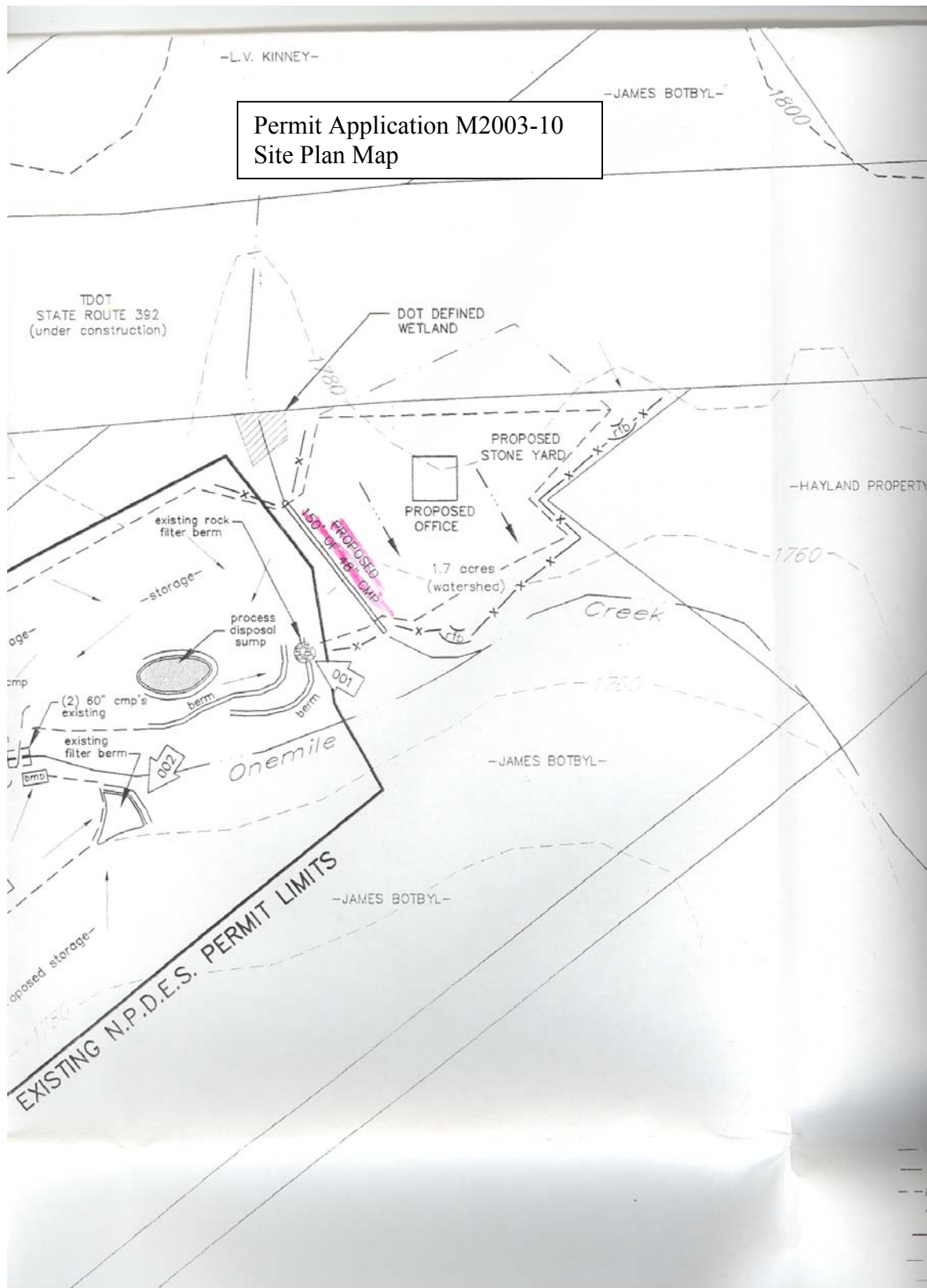
This does not obviate requirements of other federal, state or local laws.

The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et. seq. Questions concerning this certification should be addressed to Dave Turner at 865-594-5541 or Dan Murray at 865-594-5549.







**DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION**

**WATER QUALITY PERMIT  
AQUATIC RESOURCE ALTERATION**

**PERMIT NUMBER #M2003-11**

**Permit Application Number:** ARAP-#M2003-11

**Applicant:** Mr. Stanley G. Bass, Vice President  
Nolichucky Sand Company, Inc.  
1980 Greystone Road  
Greeneville, TN 37743

**Location:** Greene County near Greeneville, Tennessee associated with Nolichucky Sand Company, Inc. at 36°05'05" latitude and 82°49'50" longitude on the Davy Crockett Lake, Tennessee USGS Quadrangle Nolichucky River Mile 49 to 51.

**Project Description:** The proposed project includes the dredge removal of sand and gravel bedload deposits using an eight-inch cutterhead suction dredge with a 2,500 gallon per minute pump. This dredge will evacuate bottom deposits. These materials will be transported to shore for product processing. The process includes screening materials into separate stockpiles of +1/4 inch to -2 inch and +2 inch to the on-shore processing facility.

The proposed dredge will operate in the Nolichucky River between Mile 49 and Mile 51. A buffer zone around Bird's Bridge has been established. Nolichucky Sand Company proposes a no dredge buffer zone. This buffer zone extends five hundred feet upstream and five hundred feet downstream from Bird's Bridge. The applicant proposes to operate the dredge from January 30 through November 15 with a proposed work schedule of Monday through Friday with an occasional Saturday for ten-hour periods. The plan includes that all work will comply with the Tennessee Water Quality Control Act of 1977 including 1994 amendments and associated regulations.

**EFFECTIVE DATE:** January 2004 (pending)

**EXPIRATION DATE:** 2009

**Permit Coordinator:** Dave Turner  
Mining Section  
Division of Water Pollution Control  
2700 Middlebrook Pike  
Suite 220  
Knoxville, TN 37921

Aquatic Resource Alteration Permit Conditions

1. **The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.**
2. TWRA prohibits any public access within the Nolichucky Refuge during the late waterfowl season. This time frame is proclaimed by TWRC annually in August within framework of USFWS. All activities must be approved by TWRA prior to any access during this time frame.
3. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids; bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
4. All proposed dredging must maintain a minimum distance of thirty feet from both right and left banks and must be restricted to river section. Dredge areas shall exclude all embayments or sloughs. In some areas, the use of the riparian vegetation may extend beyond thirty feet, the use of the tree canopy as a guide may suffice as a dredge buffer zone.
5. No dredge activity within five hundred feet upstream and five hundred feet downstream of Bird's Bridge. The Bird's Bridge buffer zone must be established with visual bank markers.
6. Nolichucky Sand Company must submit quarterly reports detailing daily operations that include the amount dredged and location of the dredge by river mile.
7. Nolichucky Sand Company must inspect both right and left riverbanks for any instability i.e. slumps of bank material or trees and report to Division within 24 hours of the event.
8. Nolichucky Sand Company, prior to operation, must have land base treatment in place and construction specification certified by your engineer. This certification must be forwarded to the Division.

This does not obviate requirements of other federal, state or local laws. In particular, work shall not commence until the applicant has received the federal §404 permit from the U. S. Army, Corps of Engineers.

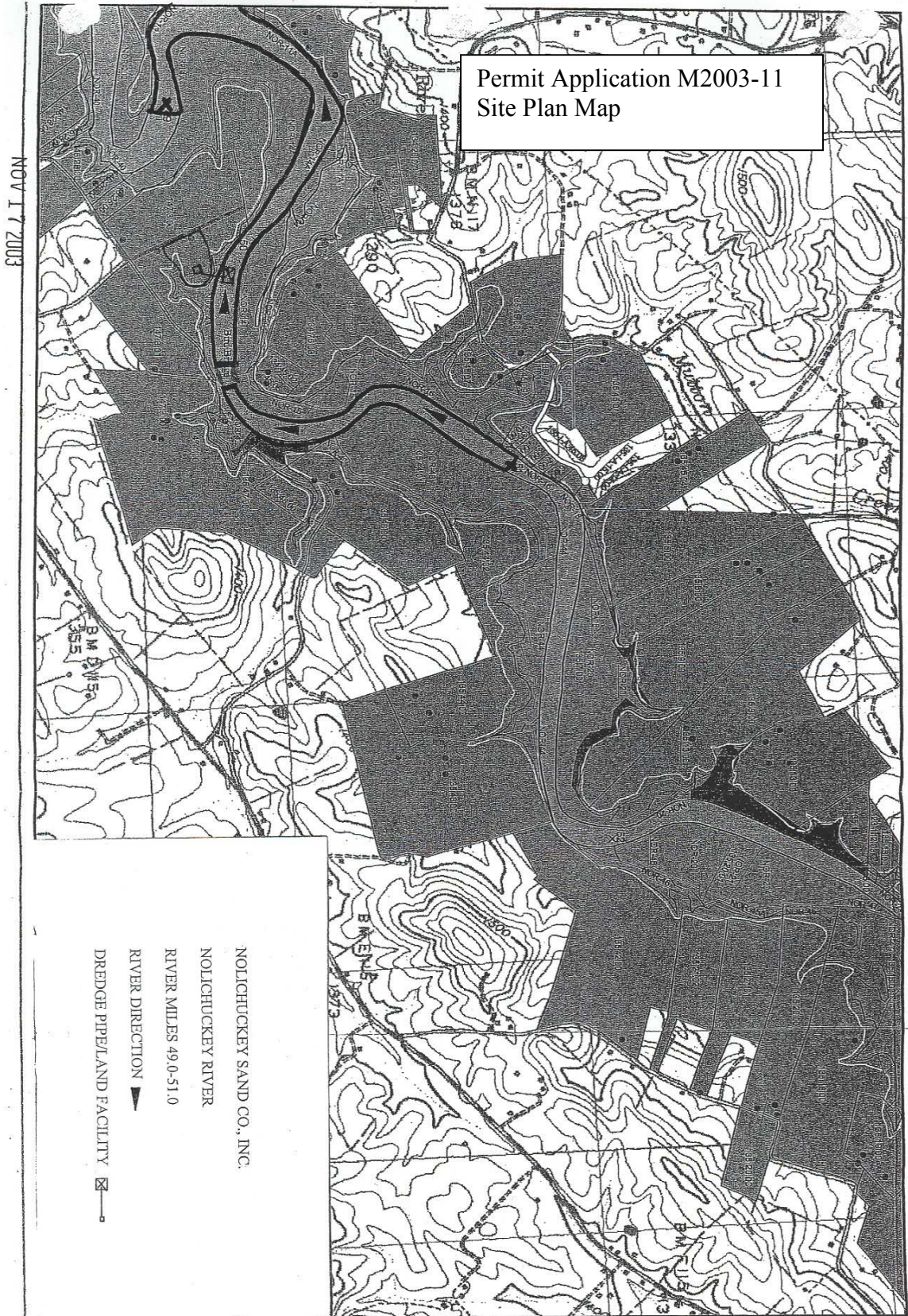
The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty (30) days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville,









### **State of Tennessee Antidegradation Policy**

Tennessee's Antidegradation Statement is found in Chapter 1200-4-3-.06 of the *Rules of the Tennessee Department of Environment and Conservation*. The primary purpose of the antidegradation policy is to establish a greater level of protection for those waters that are identified to be of high quality. Some high-quality waters are in near-pristine condition. Others are determined to be high quality due to specialized uses and/or unique features.

Generally, there are two types of high-quality waters. Outstanding National Resource Waters (ONRWs), or Tier 3 waters, are specifically designated by the Water Quality Control Board and are afforded the greatest level of protection. No new discharges or expansion of existing discharges are allowed to result in degradation of the existing water quality.

Other high-quality waters are identified by the Department as Tier 2 waters and are also protected against degradation. Some degradation may be allowed only if the Water Quality Control Board deems it economically and socially necessary. Other surface waters not specifically identified and/or designated as high quality are referred to as Tier 1 waters. Tennessee's Water Quality Standards must be achieved and/or maintained in these waters.

The Division has determined that these drainages are Tier 1 waters that will be restored as a condition of remining activities in the watershed.

### **Requirements for Posting Public Notice**

The Department Rule 1200-4-7-.04 (4) Public Notice and Participation (d) The approved Public Notice shall be distributed to interested persons and shall be circulated within the geographical area of the proposed activity as follows:

1. TDEC will distribute the approved Public Notice to interested persons who have requested TDEC notify them of ARAP applications and by posting on the TDEC website.
2. The Applicant shall distribute the approved Public Notice to the neighboring landowners by publishing in a local newspaper of general circulation and by posting a sign within view of a public road in the vicinity of the proposed project site as specified by the Division. The sign shall be of such size that is legible from the public road. Also, the sign shall be maintained for at least thirty (30) days following distribution of the approved Public Notice.
3. The applicant shall provide certification to the Division of compliance with item 2.